



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,854	12/30/2003	Janko Budzisch	6570P055	9420

8791 7590 05/25/2006

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

EXAMINER

KOROBOV, VITALI A

ART UNIT PAPER NUMBER

2155

DATE MAILED: 05/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

1. This is a first Office Action on the merits of this application. Claims 1-30 are presented for examination.

Specification

2. The disclosure is objected to because of the following informalities: 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: "nfrastructure", "unavailable", ",XML", ".XML", etc.

Further, the Applicants are reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The

Art Unit: 2155

disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The Abstract of the instant application is objected to as being too long (211 words).

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 7, 8 and 11-30 are rejected under 35 U.S.C. 112, second paragraph.

Claims 7, 8, 17, 18, 27 and 28 contain references to ".XML document".

Specifications refer to both ",XML" and ".XML" documents, and further state that X means running and no X means not running. It is not clear to the Examiner whether a customizing file of a running GRMG "nfrastructure" is an .XML document, an ,XML document or an ML document. In the interest of advancing the prosecution of the instant application, the Examiner assumed that in all of these cases the Applicants refers to an XML document and modified the claims accordingly.

Further, claims 11 and 21 are directed to messages that indicate "unavailability" of software components, which renders these claims indefinite. In the interest of advancing the prosecution of the instant application the Examiner assumed that by "unavailability" the Applicants mean "unavailability" and modified the claims accordingly.

All dependent claims are rejected as having the same deficiencies as the claims they depend from.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 9, 11-13, 19, 21-23 and 29 are rejected under 35

U.S.C. 102(e) as being anticipated by the U. S. Patent No. 6,522,995, issued to Conti et al., hereinafter Conti.

Regarding claim 1, Conti teaches a method, comprising: repeatedly receiving request messages, each of said request messages identifying the same one or more software components associated with the same testing scenario, each of said one or more software components used by a business logic process within an IS infrastructure (Col. 2, lines 1-3 - load emulation; lines 15-19 - repeated requests by the user); and, in response to each of said request messages in executing said testing scenario: testing each of said one or more software components for availability and preparing and sending a response message that indicates availability or unavailability for each of said one or more software components (Col. 2, lines 19-25 - transaction availability; lines 26-

30 - providing feed-back information).

Regarding claim 2, Conti teaches the method of claim 1 wherein at least one of said software components further comprises a web page and said testing for availability of said web page further comprises attempting to fetch said web page (Col. 3, lines 7-15 - receiving webpage data).

Regarding claim 3, Conti teaches the method of claim 1 wherein said web page's URL is identified in each of said request messages (Col. 3, lines 7-15 - receiving webpage data, which according to lines 24-29 is done using HTTP protocol, inherently using URL).

Regarding claim 9, Conti teaches the method of claim 1 wherein at least one of said software components requires a login procedure for its availability test and each of said request messages include a userid for said login procedure (Col. 4, lines 41-43 and lines 50-52 - registration of users, assigning of user IDs).

Claim 11-13 and 19 are rejected in view of the above rejection of claims 1-3 and 9. Claims 11-13 and 19 are essentially the same as claims 1-3 and 9, except that they set forth the invention as a machine readable medium rather than a method, as do claims 1-3 and 9.

Claim 21-23 and 29 are rejected in view of the above rejection of claims 1-3 and 9. Claims 21-23 and 29 are essentially the same as claims 1-3 and 9, except that they set forth the invention as a computing system rather than a method, as do claims 1-3 and 9.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-8, 10, 14-18, 20, 24-28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conti in view of the U. S. Patent No. 6,973,627, issued to Appling, hereinafter Appling.

Regarding claim 4, Conti teaches the method of claim 1.

Conti does not explicitly teach or define a method further comprising creating a request object from the content of said request message with a request message class.

However, Appling in analogous art, directed to emulating a look and feel of an application program by configuring a graphical display of a website, teaches implementation of his invention in Javascript, XML and Java, latter being inherently an object oriented language, and therefore teaches a method further comprising creating a request object from the content of said request message with a request message class (Appling, col. 2, lines 57-61).

Therefore, it would have been obvious to one having ordinary skills in the art at the time the invention was made to incorporate the teachings of Appling regarding Javascript, XML and Java, into the teachings of Conti in order to enhance the capabilities of Conti's testing methods by making his invention platform independent and by taking advantage of additional features XML and Javascript have to offer compared

to HTML. Modified in this manner Conti is hereinafter referred to as modified Conti.

Regarding claim 5, modified Conti teaches the method of claim 4 further comprising creating a scenario object from said request object with a scenario object class (Appling, col. 2, lines 57-61 - Java).

Regarding claim 6, modified Conti teaches the method of claim 5 further comprising creating a response message object with a response message class (Appling, col. 2, lines 57-61 - Java inherently implements groups of objects as classes).

Regarding claim 7, modified Conti teaches the method of claim 1 wherein said response message is an XML document (Appling, col. 2, lines 57-61 - XML).

Regarding claim 8, modified Conti teaches the method of claim 7 wherein each of said request messages is an XML document (Appling, col. 2, lines 57-61 - XML).

Regarding claim 10, modified Conti teaches the method of claim 1 wherein said testing of each of said one or more software components is performed by a servlet (Appling, col. 2, lines 57-61 - Java).

Claim 14-18 and 20 are rejected in view of the above rejection of claims 4-8 and 10. Claims 14-18 and 20 are essentially the same as claims 4-8 and 10, except that they set forth the invention as a machine readable medium rather than a method, as do claims 4-8 and 10.

Claim 24-28 and 30 are rejected in view of the above rejection of claims 4-8 and 10. Claims 24-28 and 30 are essentially the same as claims 4-8 and 10, except that they set forth the invention as a computing system rather than a method, as do claims 4-8 and 10.

Art Unit: 2155

6. **Examiner's note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must show how the amendments avoid such references and objections. See 37 CFR § 1.111(c).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vitali Korobov whose telephone number is 571-272-7506. The examiner can normally be reached on Mon-Friday 8a.m. - 4:30p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571)272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Application/Control Number: 10/749,854

Page 9

Art Unit: 2155

you have questions on access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).

Vitali Korobov
Examiner
Art Unit 2155

05/20/2006
VAK


SALEH NAJJAR
SUPERVISORY PATENT EXAMINER